

EUROPEAN UNION

THE EUROPEAN PARLIAMENT

THE COUNCIL

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Directive of the European Parliament and of the Council on waste electrical and electronic equipment (WEEE)

Joint text

approved by the Conciliation Committee
provided for in Article 251(4) of the EC Treaty

DRAFT

DIRECTIVE 2002/.../EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of

on waste electrical and electronic equipment (WEEE)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission ¹,

Having regard to the Opinion of the Economic and Social Committee ²,

Having regard to the Opinion of the Committee of Regions ³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty in the light of the joint text approved by the Conciliation Committee on 8 November 2002 ⁴,

¹ OJ C 365 E, 19.12.2000, p. 184 and OJ C 240 E, 28.8.2001, p. 298.

² OJ C 116, 20.4.2001, p. 38.

³ OJ C 148, 18.5.2001, p. 1.

⁴ Opinion of the European Parliament of 15 May 2001 (OJ C 34E, 7.2.2002, p. 115), Council Common Position of 4 December 2001 (OJ C 110E, 7.5.2002, p.1) and Decision of the European Parliament of 10 April 2002 (not yet published in the Official Journal).

Whereas:

- (1) The objectives of the Community's environment policy are, in particular, to preserve, protect and improve the quality of the environment, protect human health and utilise natural resources prudently and rationally. That policy is based on the precautionary principle and principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.
- (2) The Community programme of policy and action in relation to the environment and sustainable development ("Fifth Environmental Action Programme") ¹ states that the achievement of sustainable development calls for significant changes in current patterns of development, production, consumption and behaviour and advocates, inter alia, the reduction of wasteful consumption of natural resources and the prevention of pollution. It mentions waste electrical and electronic equipment (WEEE) as one of the target areas to be regulated, in view of the application of the principles of prevention, recovery and safe disposal of waste.
- (3) The Commission Communication of 30 July 1996 on review of the Community strategy for waste management states that, where the generation of waste cannot be avoided, it should be re-used or recovered for its material or energy.
- (4) The Council in its Resolution of 24 February 1997 on a Community strategy for waste management ² insisted on the need for promoting waste recovery with a view to reducing the quantity of waste for disposal and saving natural resources, in particular by re-use, recycling, composting and recovering energy from waste and recognised that the choice of options in any particular case must have regard to environmental and economic effects but that until scientific and technological progress is made and life-cycle analyses are further developed, re-use and material recovery should be considered preferable where and insofar as they are the best environmental options. The Council also invited the Commission to develop, as soon as possible, an appropriate follow-up to the projects of the priority waste streams programme, including WEEE.

¹ OJ C 138, 17.5.1993, p. 5.

² OJ C 76, 11.3.1997, p. 1.

- (5) The European Parliament, in its Resolution of 14 November 1996 ¹ asked the Commission to present proposals for Directives on a number of priority waste streams, including electrical and electronic waste, and to base such proposals on the principle of producer responsibility. The European Parliament, in the same Resolution, requests the Council and the Commission to put forward proposals for cutting the volume of waste.
- (6) Council Directive 75/442/EEC of 15 July 1975 on waste ² provides that specific rules for particular instances or supplementing those of Directive 75/442/EEC on the management of particular categories of waste may be laid down by means of individual Directives.
- (7) The amount of WEEE generated in the Community is growing rapidly. The content of hazardous components in electrical and electronic equipment (EEE) is a major concern during the waste management phase and recycling of WEEE is not undertaken to a sufficient extent.
- (8) The objective of improving the management of WEEE cannot be achieved effectively by Member States acting individually. In particular, different national applications of the producer responsibility principle may lead to substantial disparities in the financial burden on economic operators. Having different national policies on the management of WEEE hampers the effectiveness of recycling policies. For that reason the essential criteria should be laid down at Community level.
- (9) The provisions of this Directive should apply to products and producers irrespective of the selling technique, including distance and electronic selling. In this connection the obligations of producers and distributors using distance and electronic selling channels should, as far as is practicable, take the same form and should be enforced in the same way in order to avoid other distribution channels having to bear the costs of the provisions of this Directive concerning WEEE for which the equipment was sold by distant or electronic selling.

¹ OJ C 362, 2.12.1996, p. 241.

² OJ L 194, 25.7.1975, p.47. Directive as last amended by Commission Decision 96/350/EC (OJ L 135, 6.6.1996, p. 32).

- (10) This Directive should cover all electrical and electronic equipment used by consumers and electrical and electronic equipment intended for professional use which could end up in the municipal waste stream. This Directive should apply without prejudice to Community legislation on safety and health requirements protecting all actors in contact with WEEE as well as specific Community waste management legislation, in particular Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances ¹.
- (11) Directive 91/157/EEC needs to be revised as soon as possible, particularly in the light of this Directive.**
- (12) By establishing producer responsibility this Directive encourages the design and production of electrical and electronic equipment which take into full account and facilitates their repair, possible upgrading, re-use, disassembly and recycling.
- (13) In order to guarantee the safety and health of distributors' personnel involved in the take-back and handling of WEEE, Member States should, in accordance with national and Community legislation on safety and health requirements, determine the conditions under which take-back may be refused by distributors.**
- (14) Member States should encourage the design and production of electrical and electronic equipment which take into account and facilitate the dismantling and recovery, in particular the re-use and recycling of WEEE, their components and materials. Producers should not prevent, through specific design features or manufacturing processes, WEEE from being re-used, unless specific design features or manufacturing processes present overriding advantages, for example with regard to the protection of the environment and/or safety requirements.**

¹ OJ L 78, 26.3.1991, p. 38. Directive as amended by Commission Directive 98/101/EC (OJ L 1, 5.1.1999, p. 1).

- (15) Separate collection is the precondition to ensure specific treatment and recycling of WEEE and is necessary to achieve the chosen level of protection of human health and the environment in the Community. Consumers have to actively contribute to the success of such collection and should be encouraged to return WEEE. For this purpose, convenient facilities should be set up for the return of WEEE, including public collection points, where private households should be able to return their waste at least free of charge.
- (16) In order to attain the chosen level of protection and harmonised environmental objectives of the Community, **Member States should adopt appropriate measures to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of separate collection of WEEE. In order** to ensure that Member States strive to set up efficient collection schemes, **they should be required to achieve a high rate of collection of WEEE from private households.**
- (17) Specific treatment for WEEE is indispensable in order to avoid the dispersion of pollutants into the recycled material or the waste stream. Such treatment is the most effective means of ensuring compliance with the chosen level of protection of the environment of the Community. Any establishment or undertakings carrying out recycling and treatment operations should comply with minimum standards to prevent negative environmental impacts associated with the treatment of WEEE. **Best available** treatment and recovery and recycling **techniques** should be used provided it ensures human health and high environmental protection. **Best available treatment and recovery and recycling techniques may be further defined in accordance with the procedures of Directive 96/61/EC.**
- (18) **Where appropriate, priority should be given to the re-use of WEEE and its components, sub-assemblies and consumables. Where re-use is not preferable, all WEEE collected separately should be sent for recovery, in the course of which a high level of recycling and recovery should be achieved. In addition,** producers should be encouraged to integrate recycled material in new equipment.
- (19) Basic principles with regard to the financing of WEEE management have to be set at Community level and financing schemes have to contribute to high collection rates as well as to the implementation of the principle of producer responsibility.

- (20) Users of electrical and electronic equipment from private households should have the possibility of returning WEEE at least free of charge. Producers should therefore finance collection from collection facilities, and the treatment, recovery and disposal of WEEE. **In order to give maximum effect to the concept of producer responsibility, each producer should be responsible for financing the management of the waste from his own products. The producer should be able to choose to fulfil this obligation either individually or by joining a collective scheme. Each producer should, when placing a product on the market, provide a financial guarantee to prevent costs for the management of WEEE from orphan products from falling on society or the remaining producers. The responsibility for the financing of the management of historical waste should be shared by all existing producers in collective financing schemes to which all producers, existing on the market when the costs occur, contribute proportionately. Collective financing schemes should not have the effect of excluding niche and low-volume producers, importers and new entrants. For a transitional period, producers should be allowed to show users, on a voluntary basis at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way of historical waste. Producers making use of this provision should ensure that the costs mentioned represent to a maximum the actual costs incurred.**
- (21) Information to users about **the requirement not to dispose of WEEE as unsorted municipal waste and to collect such waste separately, and about** the collection systems and their role in the management of WEEE is indispensable for the success of WEEE collection. Such information implies the proper marking of electrical and electronic equipment which could end up in rubbish bins or similar means of municipal waste collection.
- (22) Information on component and material identification to be provided by producers is important to facilitate the management, and in particular the treatment and recovery/recycling, of WEEE.

- (23) **Member States should ensure that inspection and monitoring infrastructure enable the proper implementation of this Directive to be verified, having regard, inter alia, to Recommendation 2001/331/EC of the European Parliament and the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States¹.**
- (24) Information about the weight or, if this is not possible, the numbers of items of electrical and electronic equipment put on the market in the Community and the rates of collection, re-use (including as far as possible re-use of whole appliances) recovery/recycling **and export of WEEE collected in accordance with this Directive** is necessary to monitor the achievement of the objectives of this Directive.
- (25) Member States may choose to implement certain provisions of this Directive by means of agreements between the competent authorities and the economic sectors concerned provided that particular requirements are met.
- (26) The adaptation to scientific and technical progress of certain provisions of the Directive, the list of products -falling under the categories set out in Annex IA, the selective treatment for materials and components of WEEE, the technical requirements for storage and treatment of WEEE and the symbol for the marking of EEE should be effected by the Commission under a committee procedure.
- (27) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission²,

¹ **OJ L 118, 27.4.2001, p. 41**

² OJ 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objectives

The purpose of this Directive is, as a first priority, the prevention of waste electrical and electronic equipment (WEEE), and in addition, the re-use, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste. It also seeks to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment, e.g. producers, distributors and consumers and in particular those operators directly involved in the treatment of waste electrical and electronic equipment.

Article 2

Scope

1. This Directive shall apply to electrical and electronic equipment falling under the categories set out in Annex IA provided that the equipment concerned is not part of another type of equipment that does not fall within the scope of this Directive. Annex IB contains a list of products which fall under the categories set out in Annex IA.
2. This Directive shall apply without prejudice to Community legislation on safety and health requirements and specific Community waste management legislation.
3. Equipment which is connected with the protection of the essential interests of the security of Member States, arms, munitions and war material shall be excluded from this Directive. This does not, however, apply to products which are not intended for specifically military purposes.

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

- (a) "electrical and electronic equipment" or "EEE" means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in Annex IA and designed for use with a voltage rating not exceeding 1000 Volt for alternating current and 1500 Volt for direct current;
- (b) "waste electrical and electronic equipment" or "WEEE" means electrical or electronic equipment which is waste within the meaning of Article 1(a) of Directive 75/442/EEC, including all components, sub-assemblies and consumables, which are part of the product at the time of discarding;
- (c) "prevention" means measures aimed at reducing the quantity and the harmfulness to the environment of WEEE and materials and substances contained therein;
- (d) "re-use" means any operation by which WEEE or components thereof are used for the same purpose for which they were conceived, including the continued use of the equipment or components thereof which are returned to collection points, distributors, recyclers or manufacturers;
- (e) "recycling" means the reprocessing in a production process of the waste materials for the original purpose or for other purposes, but excluding energy recovery which means the use of combustible waste as a means of generating energy through direct incineration with or without other waste but with recovery of the heat;
- (f) "recovery" means any of the applicable operations provided for in Annex IIB to Directive 75/442/EEC;

- (g) "disposal" means any of the applicable operations provided for in Annex IIA to Directive 75/442/EEC;
- (h) "treatment" means any activity after the WEEE has been handed over to a facility for depollution, disassembly, shredding, recovery or preparation for disposal and any other operation carried out for the recovery and/or the disposal of the WEEE;
- (i) "producer" means any person who, irrespective of the selling technique used, including by means of distance communication according to Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts ¹:
- (i) manufactures and sells electrical and electronic equipment under his own brand,
 - (ii) resells under his own brand equipment produced by other suppliers, **a reseller not being regarded as the producer if the brand of the producer appears on the equipment, as provided in sub-point (i), or**
 - (iii) imports or exports electrical and electronic equipment on a professional basis into a Member State;
 - (iv) **whoever exclusively provides financing under or pursuant to any finance agreement, shall not be deemed “producer” unless he also acts as a producer in the sense of subparagraphs i to iii.**
- (j) "distributor" means any person who provides electrical or electronic equipment on a commercial basis to the party who is going to use it;
- (k) "WEEE from private households" means WEEE which comes from private households and from commercial, industrial, institutional and other sources which, because of its nature and quantity, is similar to that from private households;

¹ OJ L 144, 4.6.1997, p. 19.

- (l) "dangerous substance or preparation" means any substance or preparation which has to be considered dangerous under Council Directive 67/548/EEC ¹ or Directive 1999/45/EC of the European Parliament and of the Council ².
- (m) **"finance agreement" means any loan, lease, hiring or deferred sale agreement or arrangement relating to any equipment whether or not the terms of that agreement or arrangement or any collateral agreement or arrangement provide that a transfer of ownership of that equipment will or may take place.**

Article 4

Product design

Member States shall encourage the design and production of electrical and electronic equipment which take into account and facilitate the dismantling and recovery, in particular the re-use and recycling of WEEE, their components and materials. In this context, Member States shall take appropriate measures so that producers do not prevent, through specific design features or manufacturing processes, WEEE from being re-used, unless such specific design features or manufacturing processes present overriding advantages, for example, with regard to the protection of the environment and/or safety requirements.

Article 5

Separate collection

1. Member States shall adopt appropriate measures in order to minimise the disposal of WEEE as unsorted municipal waste and to achieve a high level of separate collection of WEEE.

2. For WEEE from private households, Member States shall ensure that by... [thirty months after the entry into force of this Directive]:

¹ OJ 196, 16.8.1967, p. 1. Directive as last amended by Commission Directive 2001/59/EC (OJ L 225, 21.8.2001, p. 1).

² OJ L 200, 30.7.1999, p. 1. Directive as last amended by Commission Directive 2001/60/EC

- (a) systems are set up allowing final holders and distributors to return such waste at least free of charge. Member States shall ensure the availability and accessibility of the necessary collection facilities, taking into account in particular the population density;
- (b) when supplying a new product, distributors shall be responsible for ensuring that such waste can be returned to the distributor at least free of charge on a one to one basis as long as the equipment is of equivalent type and has fulfilled the same functions as the supplied equipment. **Member States may depart from this provision provided they ensure that returning the WEEE is not thereby made more difficult for the final holder and provided that these systems remain free of charge for the final holder.** Member States making use of this provision shall inform the Commission thereof.
- (c) Without prejudice to the provisions of (a) and (b), Member States shall allow producers to set up and operate individual and/or collective take-back systems for WEEE **from private households provided that these are in line with the objectives of this Directive.**
- (d) Member States may provide for specific arrangements for the return of WEEE as under (a) and (b) if the equipment does not contain the essential components or if the equipment contains waste other than WEEE.
- (e) **Having regard to national and Community health and safety standards, Member States shall ensure that WEEE that presents a health and safety risk to personnel because of contamination may be refused at return points according to (a) and (b). Member States shall make specific arrangements for such WEEE.**
3. In the case of WEEE other than WEEE from private households, and without prejudice to Article 9, Member States shall ensure that producers or third parties acting on their behalf provide for the collection of such waste.

4. Member States shall ensure that all WEEE collected under paragraphs 1, 2 and 3 above is transported to treatment facilities authorised under Article 6 unless the appliances are re-used as a whole. Member States shall ensure that the envisaged re-use does not lead to a circumvention of this Directive, in particular as regards Articles 6 and 7. The collection and transport of separately collected WEEE shall be carried out in a way which optimises re-use and recycling of those components or whole appliances capable of being re-used or recycled.

5. **Without prejudice to paragraph 1**, Member States shall **ensure that by 31 December 2006 at the latest** a rate of separate collection of **at least** four kilograms on average per inhabitant per year of WEEE from private households **is achieved**.

The European Parliament and the Council, acting on a proposal from the Commission and taking account of technical and economic experience in the Member States, shall establish **a new mandatory target by 31 December 2008. This may take the form of a percentage of the quantities of electrical and electronic equipment sold to private households in the preceding years.**

Article 6

Treatment

1. Member States shall ensure that producers or third parties acting on their behalf, in accordance with Community legislation, set up systems to provide for the treatment of WEEE **using best available treatment and recovery and recycling techniques. The systems may be set up by producers individually and/or collectively.** To ensure compliance with Article 4 of Directive 75/442/EEC, the treatment shall, as a minimum, include the removal of all fluids and a selective treatment in accordance with Annex II to this Directive.

Other treatment technologies ensuring at least the same level of protection for human health and the environment may be introduced in Annex II according to the procedure referred to in Article 14(2).

For the purposes of environmental protection, Member States may set up minimum quality standards for the treatment of collected WEEE. Member States who opt for such quality standards shall inform the Commission thereof who publishes these standards.

2. Member States shall ensure that any establishment or undertaking carrying out treatment operations obtains a permit from the competent authorities, in compliance with Articles 9 and 10 of Directive 75/442/EEC.

The derogation from the permit requirement referred to in Article 11(1)(b) of Directive 75/442/EEC may apply to recovery operations concerning WEEE if an inspection is carried out by the competent authorities before the registration in order to ensure compliance with Article 4 of Directive 75/442/EEC.

The inspection shall verify:

- (a) the type and quantities of waste to be treated;
- (b) the general technical requirements to be complied with;
- (c) the safety precautions to be taken.

The inspection shall be carried out at least once a year and the results shall be communicated by the Member States to the Commission.

3. Member States shall ensure that any establishment or undertaking carrying out treatment operations stores and treats WEEE in compliance with the technical requirements set out in Annex III.

4. Member States shall ensure that the permit or the registration referred to in paragraph 2 includes all conditions necessary for compliance with the requirements of paragraphs 1 and 3 and for the achievement of the recovery targets set out in Article 7.

5. The treatment operation may also be undertaken outside the respective Member State or the Community provided that the shipment of WEEE is in compliance with Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community ¹.

¹ OJ L 30, 6.2.1993, p. 1. Regulation as last amended by Commission Decision 1999/816/EC
PE-CONS 3663-02EN.doc

WEEE exported out of the Community in line with Council Regulations 259/93 [quote] and 1420/1999 [quote] and Commission Regulation 1547/1999 [quote] shall only count for the achievement of obligations and targets of Article 7 (1) and (2) of this Directive if the exporter can prove that the recovery, re-use and/or recycling operation took place under conditions that are equivalent to the requirements of this Directive.

6. Member States shall encourage establishments or undertakings which carry out treatment operations to introduce certified environmental management systems in accordance with Regulation (EC) No 761/2001 of the European Parliament and of the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) ¹.

Article 7

Recovery

1. Member States shall ensure that producers or third parties acting on behalf of them set up systems either on an individual or collective basis, in accordance with Community legislation, to provide for the recovery of WEEE collected separately in accordance with Article 5. Member States shall give priority to the re-use of whole appliances. Until the date referred to in paragraph 4, such appliances shall not be taken into account for the calculation of the targets set out in paragraph 2.

2. Regarding WEEE sent **for treatment in accordance with** Article 6, Member States shall ensure that, **by 31 December 2006**, producers meet the following targets:

(a) for WEEE falling under **categories 1 (large household appliances) and 10 (automatic dispensers)** of Annex I A,

- the rate of recovery shall be increased to a minimum of 80% by an average weight per appliance, and

(OJ L 316, 10.12.1999, p. 45).

¹ OJ L 114, 24.4.2001, p. 1.

- component, material and substance re-use and recycling shall be increased to a minimum of 75% by an average weight per appliance;

(b) for WEEE falling under categories 3 and 4 of Annex IA,

- the rate of recovery shall be increased to a minimum of 75% by an average weight per appliance, and
- component, material and substance re-use and recycling shall be increased to a minimum of 65% by an average weight per appliance.

(c) for WEEE falling under categories 2, 5, 6, 7, **and 9** of Annex I A,

- the rate of recovery shall be increased to a minimum of 70% by an average weight per appliance, and
- component, material and substance re-use and recycling shall be increased to a minimum of 50% by an average weight per appliance;

(d) for gas discharge lamps, the rate of component, material and substance re-use and recycling shall reach a minimum of 80% by weight of the lamps.

3. Member States shall ensure that, for the purpose of calculating these targets, producers or third parties acting on their behalf keep records on the mass of WEEE, their components, materials or substances when entering (input) and leaving (output) the treatment facility and/or when entering (input) the recovery or recycling facility.

The Commission shall, in accordance with the procedure laid down in Article 14(2), establish the detailed rules for monitoring compliance, including specifications for materials, of Member States with the targets set out in paragraph 2. The Commission shall submit this measure by... [18 months after the date of entry into force of this Directive].

4. The European Parliament and the Council, acting on a proposal from the Commission, shall establish **new** targets for recovery and re-use/recycling, including for the re-use of whole appliances as appropriate, and for the products falling under category 8 of Annex IA, **by 31 December 2008**. **This shall be done with account being taken of the environmental benefits of electrical and electronic equipment in use, such as improved resource efficiency resulting from developments in the areas of materials and technology. Technical progress in re-use, recovery and recycling, products and materials, and the experience gained by the Member States and the industry, shall also be taken into account.**
5. **Member States shall encourage the development of new recovery, recycling and treatment technologies.**

Article 8

Financing in respect of WEEE from private households

1. Member States shall ensure that, by... [thirty months after the entry into force of this Directive], producers provide at least for the financing of the collection, the treatment, recovery and environmentally sound disposal of WEEE from private households deposited at collection facilities, set up under Article 5(2), onwards.
2. **For products put on the market later than [thirty months after entry into force of this Directive], each producer is responsible for financing the operations referred to in paragraph 1 related to the waste from his own products. The producer can choose to fulfil this obligation either individually or by joining a collective scheme.**

Member States shall ensure that each producer provides a guarantee when placing a product on the market showing that the management of all WEEE will be financed and that producers clearly mark their products in accordance with Article 11(2). This guarantee shall ensure that the operations referred to in paragraph 1 related to this product will be financed. The guarantee may take the form of a participation by the producer in appropriate schemes for the financing of the management of WEEE, a recycling insurance or a blocked bank account.

The costs of collection, treatment and environmentally sound disposal shall not be shown separately to purchasers at the time of sale of new products.

3. The responsibility for the financing of the costs of the management of WEEE from products put on the market before **expiry of the period referred to in paragraph 1** ("historical waste") shall be provided by one or more systems to which all producers, existing on the market when the respective costs occur, contribute proportionately, **e.g. in proportion to their respective share of the market by type of equipment.**

Member States shall ensure that for a transitional period **of 8 years (10 years for category 1 of Annex IA)** after entry into force of this directive, producers are allowed to show purchasers at the time of sale of new products, the costs of collecting, treating and disposing in an environmentally sound way. The costs mentioned represent to a maximum the actual costs incurred.

4. Member States shall ensure that producers supplying electrical or electronic equipment by means of distance communication also comply with the requirements set out in this Article for the equipment supplied in the Member State where the purchaser of that equipment resides.

Article 9

Financing in respect of WEEE from users other than private households

Member States shall ensure that, by ... [thirty months after the entry into force of this Directive], the financing of the costs for the collection, treatment, recovery and environmentally sound disposal of waste from electric and electronic equipment from users other than private households from products put on the market after the entry into force of this Directive is to be provided for by producers.

For WEEE from products put on the market before ... [**thirty months after** the entry into force of this Directive] ("historical waste"), the financing of the costs of management shall be provided for by producers. Member States may, as an alternative, provide that users other than private households also be made, partly or totally, responsible for this financing.

Producers and users other than private households may, without prejudice to this Directive, conclude agreements stipulating other financing methods.

Article 10

Information for users

1. Member States shall ensure that users of electrical and electronic equipment in private households are given the necessary information about:

- (a) **the requirement not to dispose of WEEE as unsorted municipal waste and to collect such waste separately;**
- (b) the return and collection systems available to them;
- (c) their role in contributing to re-use, recycling and other forms of recovery of WEEE;
- (d) **the potential effects on the environment and human health as a result of the presence of hazardous substances in electrical and electronic equipment;**
- (e) the meaning of the symbol shown in Annex IV.

2. Member States shall adopt **appropriate measures so that consumers participate in the collection of WEEE and to encourage them to facilitate the process of re-use, treatment and recovery.**

3. **With a view to minimising the disposal of WEEE as unsorted municipal waste and to facilitating its separate collection,** Member States shall ensure that producers appropriately mark electrical and electronic equipment **put on the market after [30 months after the entry into force of this Directive]** with the symbol shown in Annex IV. In exceptional cases, where this is necessary because of the size or the function of the product, the symbol shall be printed on the packaging, on the instructions for use and on the warranty of the electrical and electronic equipment.

4. Member States may require that some or all of the information referred to in paragraphs 1 to 3 shall be provided by producers and/or distributors, e.g. in the instructions for use or at the point of sale.

Article 11

Information for treatment facilities

1. In order to facilitate the re-use and the correct and environmentally sound treatment of WEEE, including maintenance, upgrade, refurbishment and recycling, Member States shall take the necessary measures to ensure that producers provide re-use and treatment information for each type of new EEE put on the market within one year after the equipment is put on the market. This information shall identify, as far as it is needed by re-use centers, treatment and recycling facilities in order to comply with the provisions of this Directive, the different EEE components and materials, as well as the location of dangerous substances and preparations in EEE. It shall be made available to re-use centres, treatment and recycling facilities by producers of EEE in the form of manuals or by means of electronic media (e.g. CD-ROM, online services).

2. Member States shall ensure that any producer of an electrical or electronic appliance put on the market after ... [30 months after the entry into force of this Directive] is clearly identifiable by a mark on the appliance. Furthermore, in order to enable the date upon which the appliance was put on the market to be determined unequivocally, a mark on the appliance shall specify that the latter was put on the market after... [30 months after the entry into force of this Directive]. The Commission shall promote the preparation of European standards for this purpose.

Article 12

Information and reporting

1. Member States shall **draw up a register of producers and** provide to the Commission information, including substantiated estimates, on an annual basis on the quantities and categories of electrical and electronic equipment put on their market, collected **through all routes**, re-used, recycled and recovered within the Member States, **and on collected waste exported**, by weight or, if this is not possible, by numbers.

Member States shall ensure that producers supplying electrical and electronic equipment by means of distance communication provide information on the compliance with the requirements of Article 8(4) and on the quantities and categories of electrical and electronic equipment put on the market of the Member State where the purchaser of that equipment resides.

Member States shall ensure that the information required is transmitted to the Commission **on a two-yearly basis within 18 months after the end of the period covered by the report**. The first report should cover the years 2005 and 2006. The information shall be provided in a format, which shall be established within one year after the entry into force of this Directive in accordance with the procedure referred to in Article 14(2) **with a view to establishing databases on WEEE and its treatment**.

Member States shall provide for adequate information exchange in order to comply with this paragraph, in particular for treatment operations as referred to in Article 6(5).

2. Without prejudice to the requirements of paragraph 1, Member States shall send a report to the Commission on the implementation of this Directive at three-year intervals. The report shall be drawn up on the basis of a questionnaire or outline drafted by the Commission in accordance with the procedure laid down in Article 6 of Council Directive 91/692/EEC of 23 December 1991 standardising and rationalising reports on the **implementation** of certain Directives relating to the environment ¹. The questionnaire or outline shall be sent to the Member States six months before the start of the period covered by the report. The report shall be made available to the Commission

¹ OJ L 377, 31.12.1991, p. 48.

within nine months of the end of the three-year period covered by it.

The first three-year report shall cover the period from 2004 to 2006.

The Commission shall publish a report on the implementation of this Directive within nine months after receiving the reports from the Member States.

Article 13

Adaptation to scientific and technical progress

Any amendments which are necessary in order to adapt Article 7(3), Annex IB, (in particular with a view to possibly adding luminaires in households, filament bulbs and photovoltaic products, i.e. solar panels), Annex II (in particular taking into account new technical developments for the treatment of WEEE), Annexes III and IV to scientific and technical progress shall be adopted in accordance with the procedure referred to in Article 14(2).

Before the Annexes are amended the Commission shall inter alia consult producers of electrical and electronic equipment, recyclers, treatment operators and environmental organisations and employees' and consumer associations.

Article 14

Committee

1. The Commission shall be assisted by the Committee set up by Article 18 of Directive 75/442/EEC.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 15

Penalties

Member States shall determine penalties applicable to breaches of the national provisions adopted pursuant to this Directive. The penalties thus provided for shall be effective, proportionate and dissuasive.

Article 16

Enforcement

Member States shall ensure that inspection and monitoring enable the proper implementation of this Directive to be verified.

Article 17

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by... [eighteen months after the entry into force of this Directive]. They shall immediately inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the text of all laws, regulations and administrative provisions adopted in the field covered by this Directive.

3. Provided that the objectives set out in this Directive are achieved, Member States may transpose the provisions set out in Articles 6(6), 10(1) and 11 by means of agreements between the competent authorities and the economic sectors concerned. Such agreements shall meet the following requirements:

- (a) agreements shall be enforceable;
- (b) agreements need to specify objectives with the corresponding deadlines;
- (c) agreements shall be published in the national official journal or an official document equally accessible to the public and transmitted to the Commission;
- (d) the results achieved shall be monitored regularly, reported to the competent authorities and the Commission and made available to the public under the conditions set out in the agreement;
- (e) the competent authorities shall make provisions to examine the progress reached under the agreement;
- (f) in case of non-compliance with the agreement Member States must implement the relevant provisions of this Directive by legislative, regulatory or administrative measures.

4.(a) Greece and Ireland which, due to their overall

- recycling infrastructure deficit,
- geographical circumstances such as the large number of small islands and the presence of rural and mountain areas,
- low population density, and
- low level of EEE consumption,

are unable to reach either the collection target mentioned in Article 5(5) first subparagraph or the recovery targets mentioned in Article 7(2) and which, under Article 5(2) third subparagraph of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste ¹, may apply for an extension of the deadline mentioned in that Article,

may extend the periods referred to in Articles 5(5) and 7(2) of this Directive by up to 24 months.

These Member States shall inform the Commission of their Decisions at the latest at the time of transposition of this Directive.

(b) The Commission shall inform other Member States and the European Parliament of these decisions.

5. Within five years after the entry into force of this Directive, the Commission shall submit a report to the European Parliament and the Council based on the experience of the application of this Directive, in particular as regards separate collection, treatment, recovery and financing systems. Furthermore the report shall be based on the development of the state of technology, experience gained, environmental requirements and the functioning of the internal market . The report shall, as appropriate, be accompanied by proposals for revision of the related provisions of this Directive.

Article 18

Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

¹ OJ L 182, 16.7.1999, p. 1.

Article 19

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

Categories of electrical and electronic equipment
covered by this Directive

1. Large household appliances
 2. Small household appliances
 3. IT and telecommunications equipment
 4. Consumer equipment
 5. Lighting equipment
 6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)
 7. Toys, leisure and sports equipment
 8. Medical devices (with the exception of all implanted and infected products)
 9. Monitoring and control instruments
 10. Automatic dispensers
-

List of products which shall be taken into account
for the purpose of this Directive
and which fall under the categories of Annex IA

1. Large household appliances

Large cooling appliances

Refrigerators

Freezers

Other large appliances used for refrigeration, conservation and storage of food

Washing machines

Clothes dryers

Dish washing machines

Cooking

Electric stoves

Electric hot plates

Microwaves

Other large appliances used for cooking and other processing of food

Electric heating appliances

Electric radiators

Other large appliances for heating rooms, beds, seating furniture

Electric fans

Air conditioner appliances

Other fanning, exhaust ventilation and conditioning equipment

2. Small household appliances

Vacuum cleaners

Carpet sweepers

Other appliances for cleaning

Appliances used for sewing, knitting, weaving and other processing for textiles

Irons and other appliances for ironing, mangling and other care of clothing

Toasters

Fryers

Grinders, coffee machines and equipment for opening or sealing containers or packages

Electric knives

Appliances for hair-cutting, hair drying, tooth brushing, shaving, massage and other body care appliances

Clocks, watches and equipment for the purpose of measuring, indicating or registering time

Scales

3. IT and telecommunications equipment

Centralised data processing:

Mainframes

Minicomputers

Printer units

Personal computing:

Personal computers (CPU, mouse, screen and keyboard included)

Lap-top computers (CPU, mouse, screen and keyboard included)

Note-book computers

Note-pad computers

Printers

Copying equipment

Electrical and electronic typewriters

Pocket and desk calculators

and other products and equipment for the collection, storage, processing, presentation or communication of information by electronic means

User terminals and systems

Facsimile

Telex

Telephones

Pay telephones

Cordless telephones

Cellular telephones

Answering systems

and other products or equipment of transmitting sound, images or other information by telecommunications

4. Consumer equipment

Radio sets

Television sets

Videocameras

Video recorders

Hi-fi recorders

Audio amplifiers

Musical instruments

And other products or equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image than by telecommunications

5. Lighting equipment

Luminaires for fluorescent lamps with the exception of luminaires in households

Straight fluorescent lamps

Compact fluorescent lamps

High intensity discharge lamps, including pressure sodium lamps and metal halide lamps

Low pressure sodium lamps

Other lighting or equipment for the purpose of spreading or controlling light with the exception of filament bulbs

6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)

Drills

Saws

Sewing machines

Equipment for turning, milling, sanding, grinding, sawing, cutting, shearing, drilling, making holes, punching, folding, bending or similar processing of wood, metal and other materials

Tools for riveting, nailing or screwing or removing rivets, nails, screws or similar uses

Tools for welding, soldering or similar use

Equipment for spraying, spreading, dispersing or other treatment of liquid or gaseous substances by other means

Tools for mowing or other gardening activities

7. Toys, leisure and sports equipment

Electric trains or car racing sets

Hand-held video game consoles

Video games

Computers for biking, diving, running, rowing, etc.

Sports equipment with electric or electronic components

Coin slot machines

8. Medical devices (with the exception of all implanted and infected products)

Radiotherapy equipment

Cardiology

Dialysis

Pulmonary ventilators

Nuclear medicine

Laboratory equipment for in-vitro diagnosis

Analysers

Freezers

Fertilization tests

Other appliances for detecting, preventing, monitoring, treating, alleviating illness, injury or disability

9. Monitoring and control instruments

Smoke detector

Heating regulators

Thermostats

Measuring, weighing or adjusting appliances for household or as laboratory equipment

Other monitoring and control instruments used in industrial installations (e.g. in control panels)

10. Automatic dispensers

Automatic dispensers for hot drinks

Automatic dispensers for hot or cold bottles or cans

Automatic dispensers for solid products

Automatic dispensers for money

All appliances which deliver automatically all kind of products

Selective treatment for materials and components of
waste electrical and electronic equipment
in accordance with Article 6(1)

1. As a minimum the following substances, preparations and components have to be removed from any separately collected WEEE:
 - Polychlorinated biphenyls (PCB) containing capacitors in accordance with Council Directive 96/59/EC of 16 September 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT) ¹
 - Mercury containing components, such as switches or backlighting lamps
 - Batteries
 - Printed circuit boards of mobile phones generally, and of other devices if the surface of the printed circuit board is greater than 10 square centimetres
 - Toner cartridges, liquid and pasty, as well as colour toner
 - Plastic containing brominated flame retardants
 - Asbestos waste **and components which contain asbestos**
 - Cathode ray tubes
 - Chlorofluorocarbons (CFC), hydrochlorofluorocarbons (HCFC) or hydrofluorocarbons (HFC), hydrocarbons (HC)
 - Gas discharge lamps
 - Liquid crystal displays (together with their casing where appropriate) of a surface greater than 100 square centimetres and all those back-lighted with gas discharge lamps
 - External electric cables

¹ OJ L 243, 24.9.1996, p. 31.

- Components containing refractory ceramic fibres as described in Commission Directive 97/69/EC of 5 December 1997 adapting to technical progress Council Directive 67/548/EEC relating to the classification, packaging and labelling of dangerous substances ¹
- Components containing radioactive substances with the exception of components that are below the exemption thresholds set in Article 3 of and Annex I to Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation ²
- Electrolyte capacitors containing substances of concern (height > 25 mm, diameter > 25 mm or proportionately similar volume)

These substances, preparations and components shall be disposed of or recovered in compliance with Article 4 of Directive 75/442/EEC.

2. The following components of WEEE that is separately collected have to be treated as indicated:

- Cathode ray tubes: The fluorescent coating has to be removed
- Equipment containing **gases that are ozone depleting or have a global warming potential (GWP) above 15, such as those contained in foams and refrigeration circuits: The gases must be properly extracted and properly treated. Ozone-depleting gases must be treated** in accordance with Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer ³.
- Gas discharge lamps: The mercury shall be removed.

3. Taking into account environmental considerations and the desirability of re-use and recycling, paragraphs 1 and 2 shall be applied in such a way that environmentally-sound re-use and recycling of components or whole appliances is not hindered.

¹ OJ L 343, 13.12.1997, p. 19.

² OJ L 159, 29.6.1996, p. 1.

³ OJ L 244, 29.9.2000, p. 1.

4. Within the procedure referred to in Article 14(2), the Commission shall evaluate as a matter of priority whether the entries regarding:

- printed circuit boards for mobile phones, and
- liquid crystal displays

are to be amended.

Technical requirements in accordance with Article 6(3)

1. Sites for storage (including temporary storage) of WEEE prior to their treatment (without prejudice to the requirements of Directive 1999/31/EC):
 - Impermeable surfaces for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers
 - Weatherproof covering for appropriate areas
2. Sites for treatment of WEEE:
 - Balances to measure the weight of the treated waste
 - Impermeable surfaces and waterproof covering for appropriate areas with the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers
 - Appropriate storage for disassembled spare parts
 - Appropriate containers for storage of batteries, PCBs/PCTs containing capacitors and other hazardous waste such as radioactive waste
 - Equipment for the treatment of water in compliance with health and environmental regulations

Symbol for the marking of electrical and electronic equipment

The symbol indicating separate collection for electrical and electronic equipment consists of the crossed-out wheeled bin, as shown below. The symbol must be printed visibly, legibly and indelibly.

